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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,816	07/27/1999	SIMON ALEXANDER HANSON ROSE	AG/W-21900/A	5989

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EXAMINER

QAZI, SABIHA NAIM

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/361,816

Applicant(s)

HANSON ROSE ET AL.

Examiner

Sabiha Qazi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 26.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/15/03 has been entered.

Acknowledgement is made for the response, amendment and request for reconsideration filed in paper no. 21. Amendments are entered. Claims 12-21 are pending. No claim is allowed at this time.

Arguments are not found persuasive because EP'611 teaches all the components of composition as presently claimed. It teaches the use of fertilizer and polymer as presently claimed.

Double patenting rejection over U.S. Patent No. 6,288,010 is withdrawn because terminal disclaimer is filed.

Presently claimed invention is drawn to:

A soil treatment process comprising adding an aqueous soil treatment composition consisting essentially of:

(a) An ionic water-soluble fertilizer in an amount of at least 10 weight percent, and

(b) A water-soluble anionic polymer. Which has the intrinsic viscosity of from 9-12 dl/g and is formed from water-soluble monomer blend comprising 60-80% anionic monomer and from 40 to 20% nonionic monomer, the composition having a viscosity of not more than 4,000 cps, to water, the composition being thereby diluted, and irrigating an area of soil with water.

Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 586,911 and Sylling et al. WO 85/01938. The references teach a polymeric soil improvement compositions, which embraces applicant's claimed invention. See the entire documents especially lines 10-30 on page 3;

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examples and claims in Sylling et al. and lines 36-50 and lines 1-30 on page 3; lines 4-40, page 4; Tables and examples.

1. Determining the scope and contents of the prior art.

EP '911 teaches a composition for the treatment of soil containing an anionic fertilizer and anionic polymer such as polyacrylamide and 97 to 0 mole percent of different water-soluble monomer or salts thereof. See the entire document especially lines 36-50 and lines 1-30 on page 3; lines 4-40, page 4; Tables, examples and claims. The composition is added to water prior to irrigating an area of soil. See claims 8 and 10.

WO reference teaches a composition for soil treatment comprising anionic polymeric materials such as copolymers of acrylic acid, methacrylic acid (lines 11-21 on page 4).

2. Ascertaining the differences between the prior art and the claims at issue.

Prior art EP '911 teaches gel composition and instant is aqueous composition. Prior art does not specific viscosity, which is instantly claimed.

3. Resolving the level of ordinary skill in the pertinent art.

Prior art EP '911 teaches gel composition and instant is aqueous composition. These are considered obvious to one who is familiar with the art. Gel or solution form of a composition is considered optional in absence of unexpected results. See for example Erythromycin, which is sold in the market as 2% gel, as 2% solution and as 2% ointment. See page 3060 in "drug, facts and comparisons, 1999 edition, (A Wolters Kluwer Company, St Louis). So the different forms as cited above are optional and would have been obvious at the time of invention.

a) Gels are prepared in large amount of water, see for instance page 1518, (Remington reference), where ephedrine sulfate gel is prepared by adding 830 ml of water for 10.0 gms of ephedrine.

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b) The viscosity would be the same for anionic polymer taught by EP '911. It is known that a chemical compound and its properties for example viscosity, melting point, density etc. are inseparable to the compound. See *In re Spada*, 15 USPQ (2d) 1655, 1658.

c) Styling reference teaches an aqueous composition.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

One having ordinary skilled in the art would be motivated at the time of invention to prepare beneficial compositions for the improvement of soil because prior art cited above teach the composition useful for the same. There has been ample motivation provided by the prior art to prepare the composition as instantly claimed. Since the viscosity of the prior art is not disclosed, presently claimed invention is considered obvious in absence of showing ant unexpected results.

Claim Rejections - 35 USC § 103

Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 51-124578. The reference teaches an aqueous solution-form soil conditioning fertilizer comprising an acrylamide-potassium acrylate copolymer, which embraces the applicant's claimed invention. The reference also teaches that it is preferred to use the copolymer in an amount of about 0.001 to 0.05% by weight, based on the weight of the soil, but if desired, the copolymer may be used in a larger or smaller amount. See the entire document, especially Section 2 of Page 1, all Examples, and Claims.

Instant claims differ from the prior art in having a generic scope.

One skilled in the art would be motivated to prepare the aqueous solution-form fertilizer as has been presently claimed because the prior art teaches the ranges in concentration and the amount of diluted fertilizer needed for soil aggregation.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabiha Qazi whose telephone number is 703-305-3910. The examiner can normally be reached on every business day..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



SABIHA QAZI, PH.D
PRIMARY EXAMINER